

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Re: Appeal to the Board of Patent Appeals and Interferences

Appellants Zhou, et al.) Examiner: Elizabeth M. Cole
Serial Number: 10/733,169)
Filed: 12/11/2003) Group Art Unit: 1794
Confirmation No.: 5949) Customer Number: 22827
Title: Disposable Scrubbing Product) Deposit Account: 04-1403
) Attorney Docket No. KCX-652 (18776)

1. **NOTICE OF APPEAL:** Pursuant to 37 CFR 41.31, Applicant hereby appeals to the Board of Appeals from the decision dated _____ of the Examiner twice/finally rejecting claims _____.
2. **BRIEF** on appeal in this application pursuant to 37 CFR 41.37 is transmitted herewith (1 copy).
3. An **ORAL HEARING** is respectfully requested under 37 CFR 41.47 (due within two months after Examiner's Answer).
4. Reply Brief under 37 CFR 41.41(b) is transmitted herewith (1 copy).
5. "Small entity" verified statement filed: [] herewith [] previously.

6. **FEE CALCULATION:**

| | Fees |
|--|-------------|
| If box 1 above is X'd enter \$ 540.00 | \$ 0.00 |
| If box 2 above is X'd enter \$ 540.00 | \$ 540.00 |
| If box 3 above is X'd enter \$1,080.00 | \$ 0.00 |
| If box 4 above is X-d enter -0- (no fee) | \$ 540.00 |

PETITION is hereby made to extend the original due date of March 23, 2009, hereby made for an extension to cover the date this response is filed for which the requisite fee is enclosed (1 month \$130; 2 months \$490; 3 months \$1,110; 4 months \$1,730, 5 months \$2,350) \$ 0.00

SUBTOTAL: \$ 540.00

Less any previous extension fee paid since above original due date. - \$ 0.00

Less any previous fee paid for prior Notice of Appeal since Board did not render a decision on the merits. MPEP § 1204.01 - \$ 0.00

Less any previous fee paid for submitting Brief on prior Appeal since Board did not render a decision on the merits. MPEP § 1204.01 - \$ 540.00

SUBTOTAL: \$ 0.00

If "small entity" verified statement filed previously,
 herewith, enter one-half (½) of subtotal and subtract - \$ 0.00

TOTAL FEE ENCLOSED: \$ 0.00

- Fee enclosed.
- Charge fee to our Deposit Account/Order Nos. in the heading hereof (for which purpose one additional copy of this sheet is attached)
- Charge to credit card (attach Credit Card Payment Form – PTO 2038)
- Fee NOT required since paid in prior appeal in which the Board of Appeals did not render a decision on the merits.

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof. This statement does not authorize charge of the issue fee in this case.

DORITY & MANNING ATTORNEYS AT LAW, P.A.

ADDRESS:

Post Office Box 1449
Greenville, SC 29602 USA
Customer ID No.: 22827
Telephone: (864) 271-1592
Facsimile: (864) 233-7342

By: Alan R. Marshall Reg. No: 56,405

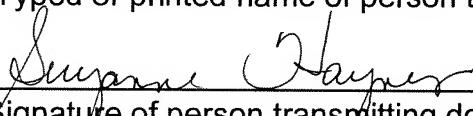
Signature: 

Date: February 26, 2009

I hereby certify that this correspondence and all attachments and any fee(s) are being electronically transmitted via the internet to the U.S. Patent and Trademark Office using the Electronic Patent Filing System on February 26, 2009.

Suzanne Haynes

(Typed or printed name of person transmitting documents)


(Signature of person transmitting documents)

PATENT
ATTORNEY DOCKET NO: KCX-652 (18776)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|-------------------------------------|---|-----------------------------|
| In re Application: Zhou et al. |) | Examiner: Elizabeth M. Cole |
| |) | |
| Serial No: 10/733,169 |) | Art Unit: 1794 |
| |) | |
| Filed: December 11, 2003 |) | Confirmation No: 5949 |
| |) | |
| Title: Disposable Scrubbing Product |) | Deposit Account No: 04-1403 |
| |) | |
| |) | Customer No: 22827 |

Mailstop Appeal Brief - Patents
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

Honorable Commissioner:

Appellants submit the following brief on appeal in accordance with 37 C.F.R. § 41.37:

1. REAL PARTY IN INTEREST

The real party in interest in this matter is the assignee of record, Kimberly-Clark Worldwide, Inc.

2. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to the Appellants or the Appellants' legal representative which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

3. STATUS OF CLAIMS

Currently, claims 1-91 remain pending in the present application. Claims 1-8, 12, 17-18, 21-31, 35, 36, 41-53, 56-60, and 62-63, including independent claims 1, 29, and 47 were examined,¹ and claims 9-11, 13-16, 19-20, 32-34, 37-40, 54-55, 61, and 64-91 are withdrawn pursuant to the species election filed on Oct. 5, 2005. All the pending claims are attached hereto in the Claims Appendix.

In the Final Office Action of September 19, 2008 and in the Advisory Action of January 7, 2009, claims 1-8, 12, 17-18, 21-31, 35, 36, 41-53, 56-60, and 62-63 were finally rejected under 35 U.S.C. §103(a).

The rejection of examined claims 1-8, 12, 17-18, 21-31, 41-53, 56-60, and 62-63 is hereby appealed.²

4. STATUS OF AMENDMENTS

To the Appellant's knowledge, all amendments have been entered into the record.

5. SUMMARY OF CLAIMED SUBJECT MATTER

In general, the present application is directed to, a disposable scrubbing product for use in household cleaning or personal care applications as well as industrial cleaning and other applications. Pg. 1, lines 29-31. According to the present application, the disposable scrubbing product is a multi-layered product and generally

¹ Claim 49 was not specifically rejected in the Office Action, though it is listed as rejected in the Office Action Summary. Applicants assume that the Examiner intended the rejection of claim 49 to be similar to claim 5, since both claims are directed to thread made from an elastic material.

² Applicants note that this is the second Appeal Brief filed in this application. Applicants request that the Examiner either issue a Notice of Allowance or allow this appeal to proceed to the Board of Patent Appeals and Interferences for a decision, especially in view of the fact that the rejections in both appeals are in view of the same references: (1) A in combination with B, and (2) B in combination with A.

includes at least two distinct layers, an abrasive layer and an absorbent fibrous layer.

Pg. 2, lines 1-3. In some embodiments, the scrubbing product is constructed containing a plurality of abrasive structures configured in a stacked arrangement. Pg. 2, lines 17-19. This embodiment may further include an attachment structure for releasably attaching the plurality of abrasive structures together with sufficient strength to permit use of the scrubbing product without the plurality of abrasive structures delaminating.

Pg. 2, lines 26-30.

For example, independent claim 1 is directed to a scrubbing product comprising a plurality of abrasive structures comprising an alternating abrasive layer and absorbent layer with the abrasive structures being attached to the top surface of a liquid absorbent substrate. See, e.g., Fig. 13 and Pg. 45, lines 26-32. Additionally, the scrubbing product comprises an attachment structure for releasably attaching the plurality of abrasive structures together, and allows for the top abrasive structure to be removed from the scrubbing product by a user pulling on the top abrasive structure. See, e.g., Fig. 13 and Pg. 46, lines 18-20.

Claim 4 is dependent upon claim 1 and provides for a plurality of stitches holding the abrasive structures together by a thread. See, e.g., Fig. 13 and Pg. 47, lines 5-6. Dependent claim 5 further requires that the thread be made from an elastic material. See, e.g., Fig. 13 and Pg. 47, lines 6-7.

Independent claim 29 is directed to a scrubbing product comprising a substrate and a plurality of scrubbing layers wrapped around the substrate. See, e.g., Fig. 23 and Pg. 52, lines 23-26. Each of the scrubbing layers include an abrasive layer adhered to an fibrous cellulosic web. See, e.g., Fig. 22, Pg. 52, lines 6-7. The abrasive structures

are configured in an arrangement such that the abrasive layers and the fibrous cellulosic webs alternate. See, e.g., Fig. 13 and Pg. 45, lines 26-32. The scrubbing layers are configured to be sequentially removed from the scrubbing product thereby exposing an unused scrubbing layer lying below the removed layer. See, e.g., Fig. 23 and Pg. 52, lines 20-22.

Finally, independent claim 47 is directed to a scrubbing product comprising a plurality of abrasive structures each including an abrasive layer and an absorbent layer configured in a stacked arrangement such that the abrasive layers and the absorbent layers alternate. See, e.g., Fig. 14 and Pg. 45, lines 26-28. To remove the top abrasive structure from the scrubbing product, an attachment structure is provided for releasably attaching the plurality of abrasive structures together. See, e.g., Fig. 14 and Pg. 46, lines 18-20. Additionally, the attachment structure comprises a plurality of stitches that holds the plurality of abrasive structures together by a thread. See, e.g., Fig. 14 and Pg. 46, lines 22-23.

Claim 49 is dependent upon claim 47 and provides that the thread is made from an elastic material. See, e.g., Fig. 14 and Pg. 47, lines 6-7.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- I. In the Final Office Action, claims 1-4, 7, 12, 18, 21-22, 26, 29, 35-36, 43-44, 47, 48, 50-51, 53, 56-57, and 62, including independent claims 1, 29, and 47, were rejected under 35 U.S.C. § 103(a) in view of WO 93/02610 (hereinafter “WO '610”) in combination with EP 1,212,974 (hereinafter “EP '974”).

- II. Dependent claims 5-6, 23-25, 27-28, 30-31, 41-46, 52, 58-60³ were rejected under 35 U.S.C. § 103(a) in view of WO '610 in combination with EP '974 and in further combination with U.S. Publication No. 2003/0028985 of Prodoehl, et al. and in even further combination with U.S. Patent No. 4,704,321 of Zafiroglu.
- III. Dependent claim 17 was rejected under 35 U.S.C. § 103(a) in view of EP '974 in combination with WO '610 and in further combination with EP 0,066,463 (hereinafter "EP '463").

7. **ARGUMENT**

Appellants respectfully submit that the presently pending claims are patentable over the cited references.

- I. **Claims 1-4, 7, 12, 18, 21-22, 26, 29, 35-36, 43-44, 47, 48, 50-51, 53, 56-57, and 62 are patentable under 35 U.S.C. § 103(a) over WO '610 in combination with EP '974.**

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). “[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Furthermore, “there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). Accordingly, even if all elements of a claim are disclosed in various prior art references, the claimed

³ As stated above, Applicants assume that the Examiner intended claim 49 to be included in this rejection.

invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill would have been prompted to modify the teachings of the references to arrive at the claimed invention. See e.g., *In re Regel*, 188 U.S.P.Q. 132 (C.C.P.A. 1975).

A. Even if combined, absent any rationale to do so, WO '610 and EP '974 fail to teach all of the limitations of independent claims 1, 29, and 47.

To establish a *prima facie* case of obviousness, in addition to other requirements, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

WO '610 is directed to a disposable wash cloth comprising a first exposed absorbing layer, a second disinfectant layer, and a third layer. The second layer is hermetically enclosed between two attached plastic sheets. The third layer may also be hermetically enclosed between two attached plastic sheets. See *Abstract*. The Office Action admits that WO '610 differs from the claimed invention because it does not teach an abrasive layer.

More specifically, WO '610 fails to teach (1) a plurality of abrasive structures each comprising an abrasive layer and an absorbent layer (or a fibrous cellulosic web), (2) the abrasive structures being configured in an arrangement such that the abrasive layers, and (3) the absorbent layers alternate, as required by independent claim 1, 29, and 47 of the present application.

In order to overcome the deficiencies of WO '610, the Office Action attempts to combine the teachings of EP '974. However, EP '974 fails to cure the deficiencies of

WO '610 with respect to the present claims. EP '974 discloses a number of arrangements of scrubbing substrates and cleaning substrates including the following:

1. only one cleaning substrate and only one scrubbing substrate packed in a layered fashion, preferably back to back
2. two or more cleaning substrates packed in a layered fashion, and only one scrubbing surface attached to one side of one of the cleaning substrates
3. two or more scrubbing substrates packed side by side such that both scrubbing substrates are in contact with a single cleaning substrate
4. two or more scrubbing substrates arranged one on top of the other in a layered fashion, only one of the scrubbing substrates in contact with the cleaning substrate

However, none of these arrangements discloses a plurality of abrasive structures comprising an abrasive layer and an absorbent layer in a stacked arrangement such that the abrasive layers and the absorbent layers alternate. Although the second and fourth embodiments teach a layered arrangement of the cleaning and scrubbing substrates, both arrangements teach that substrates of the same type (either both cleaning or both scrubbing) are layered directly next to one another. See *paragraph 25*. Nowhere does EP '974 disclose or suggest an alternating arrangement of the cleaning and scrubbing substrates as required by the independent claims of the present application.

The combination of the disclosures of WO '610 and EP '974 would not yield the present invention as required by independent claims 1, 29, and 47. For example, WO '610 discloses a stacked arrangement of a first absorbent layer, a second disinfectant

layer, and a third layer, requiring a plastic sheet between the interface of these layers. Although the layers alternate with plastic sheets, the plastic sheets can neither be used as an abrasive layer nor as an absorbent layer. As discussed above, EP '974 discloses four arrangements of cleaning and scrubbing substrates. To combine the four embodiments of EP '974 with WO '610 would require each layer to be separated from the subsequent layer by a plastic sheet.

This combined design automatically precludes the first and third embodiments of EP '974 since they are not comprised of multiple layers of the cleaning or scrubbing substrate.

A combination of the teachings of WO '610 with the second embodiment described in EP '974 (having two or more cleaning substrates layered back to back and then attached to one scrubbing substrate) would require inserting a plastic sheet between each of the absorbent layers (the cleaning substrate), while leaving the lone scrubbing substrate attached to the outer cleaning substrate. Thus, while the plastic sheet (which is not useful as an abrasive layer) of WO '610 alternates with the absorbent cleaning substrate of EP '974, this combination would not lead to a substrate having alternating abrasive and absorbent layers, such as required by the independent claims. Additionally, this combination does not lead to a plurality of scrubbing layers on the product, as required by the independent claims.

Likewise, a combination of the fourth embodiment of EP '974 (one cleaning substrate attached to two or more scrubbing substrates that are layered on top of one another) with WO '610 would not lead to the structure of independent claims 1, 29, and 47. A combination of the teachings of WO '610 with this embodiment of EP '974 would

result in the insertion of a plastic sheet between each of the scrubbing layers, while leaving the lone cleaning substrate (absorbent layer) attached to one side of the substrate. Thus, while the plastic sheet (which is not useful as an absorbent layer) of WO '610 alternates with the scrubbing substrate of EP '974, this combination would not lead to a substrate having alternating abrasive and absorbent layers, such as required by the independent claims. Additionally, this combination does not lead to a plurality of absorbent layers on the product, as required by independent claims 1, 29, and 47.

Applicants respectfully assert that combining EP '974 with WO '610 simply does not teach alternating layers comprising an abrasive and absorbent layer as defined in the independent claims of the present application. The Office Action recognizes that neither reference teaches such a configuration. Instead, the Office Action creates the statement above in an attempt to justify departing from the express teachings of the references.

Since the combination of WO '610 and EP '974 fail to disclose or suggest each element of independent claims 1, 29, and 47, Applicants submit that the present claims patentably define over the prior art.

B. No rationale exists to combine WO '610 and EP '974 as attempted by the Office Action.

No rationale exists for one of ordinary skill in the art to have combined the teachings and suggestions of WO '610 and EP '974 as advanced by the Examiner, except from using Applicants' invention as a template through a hindsight reconstruction of Applicants' claims, which cannot be successfully used to support a *prima facie* case of obviousness. As previously discussed, primary reference WO '610 discloses a first

absorbing layer, a second disinfectant layer, and a third layer, each layer being interspersed with a plastic sheet. Each of the layers disclosed in WO '610 fulfills a different cleaning purpose, necessitating the plastic sheets to separate the three layers and maintain sterility of each individual layer. According to the disclosure of WO '610, a layer of the disposable wash cloth is used for a specific cleaning purpose and then removed from the wash cloth and discarded before the subsequent layer is used for a different cleaning purpose. The dishwashing wipe disclosed in EP '974 comprises layers of scrubbing and cleaning substrates; however, these layers are attached without any sort of sterility barriers. Furthermore, the different cleaning layers of EP '974 are not releasably attached. As such, the general structure of the dishwashing wipe of EP '974 indicates that there is no need for the different cleaning layers to be used apart from each other. While WO '610 requires strict sterility between the cleaning layers, EP '974 fails to even suggest the usefulness of maintaining sterility or isolation between layers. In addition, none of the references cited in the Office Action discloses or suggests a plurality of abrasive structures comprising an abrasive layer and an absorbent layer, arranging abrasive structures such that the abrasive layers and the absorbent layers alternate.

Plainly, the Examiner's only incentive or motivation for so modifying WO '610 using the teachings of EP '974 in the manner suggested in the Final Office Action results from using Appellant's disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art, which is improper under 35 U.S.C. § 103. The U.S. Supreme Court recently reaffirmed that “[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of argument

reliant upon ex post reasoning.” KSR Int’l Co. v. Teleflex Inc., 127 S. Ct. 1727, 82 USPQ2d at 1397. See also, Graham v. John Deere Co., 383 U.S. at 36, 148 USPQ at 474.

The Office Action simply states that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. While true, the Office Action completely ignore that no suggestion or motivation exists to combine the teachings and suggestions of WO ‘610 and EP ‘974 as advanced by the Examiner.

Each of the layers disclosed in WO ‘610 fulfills a different cleaning purpose, necessitating the plastic sheets to separate the three layers and maintain sterility of each individual layer. According to the disclosure of WO ‘610, a layer of the disposable wash cloth is used for a specific cleaning purpose and then removed from the wash cloth and discarded before the subsequent layer is used for a different cleaning purpose. The dishwashing wipe disclosed in EP ‘974 comprises layers of scrubbing and cleaning substrates; however, these layers are attached without any sort of sterility barriers. Furthermore, the different cleaning layers of EP ‘974 are not releasably attached. As such, the general structure of the dishwashing wipe of EP ‘974 indicates that there is no need for the different cleaning layers to be used apart from each other. While WO ‘610 requires strict sterility between the cleaning layers, EP ‘974 fails to even suggest the usefulness of maintaining sterility or isolation between layers. In addition, none of the references cited in the Office Action discloses or suggests a plurality of abrasive structures comprising an abrasive layer and an absorbent layer, arranging abrasive structures such that the abrasive layers and the absorbent layers alternate. Thus, only the Applicants’ disclosure suggests any motivation or incentive to create a

scrubbing product comprising alternating abrasive and absorbent layers. The Office Action has clearly used hindsight analysis in rejecting the presently pending claims.

C. Independent claim 29 is patentable over the cited references.

The Office Action states that “official notice is taken that it is well known in the art to wrap plies of cleaning sheets in roll form, for example as in rolls of paper towels, baby wipes, etc.” in rejecting independent claim 29. While Applicants agree that products of paper towels, toilet tissue, etc. are commonly rolled for packaging, storage, and dispensing purposes, Applicants traverse this conclusion by the Examiner. Applicants assert that it is not known in the art, and that none of the cited references discloses, a scrubbing product having a plurality of scrubbing layers wrapped around the substrate with each of the scrubbing layers comprising an abrasive structure including an abrasive layer adhered to a fibrous cellulosic web. The Examiner is apparently confusing a plurality of tissue webs wrapped around a core with a single scrubbing product have multiple layers. In contrast to a conventional roll of paper towels, for example, the scrubbing product of claim 29 is utilized as a whole – as a single product for cleaning. Then, when the outside layer of the scrubbing product is soiled, it can be sequentially removed from the scrubbing product thereby exposing an unused scrubbing layer lying below the removed layer. As such, the claimed scrubbing product is not equivalent to the known rolls of paper towels, etc.

In maintaining the rejection of independent claim 29, the Final Office Action states that “the instant claims do not recite how the material is used.” However, independent claim 29 is expressly directed to a scrubbing product having a plurality of scrubbing layers wrapped around the substrate with each of the scrubbing layers

comprising an abrasive structure including an abrasive layer adhered to a fibrous cellulosic web. The preamble limitation is limiting on the claim.

When the preamble recites a limitation in the context of the entire claim, it should be read as if in the balance of the claim. Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation. In considering whether a preamble limits a claim, the preamble is analyzed to ascertain whether it states a necessary and defining aspect of the invention, or is simply an introduction to the general field of the claim. The preamble serves to focus the reader on the invention that is being claimed. See, e.g., *On Demand Machine Corp. v. Ingram Industries, Inc.*, 442 F.3d 1331, 1344 (Fed.Cir. 2006) (We conclude that the preamble in this case necessarily limits the claims, in that it states the framework of the invention); *Kropa v. Robie*, 38 C.C.P.A. 858, 187 F.2d 150, 152 (1951) (the court aptly described the inquiry as whether the preamble is “necessary to give life, meaning and vitality to the claims or counts.”); *Poly-America, L.P. v. GSE Lining Tech., Inc.*, 383 F.3d 1303, 1309-10 (Fed.Cir. 2004) (the specification described the “blown-film” as a fundamental characteristic of the invention, and its use in the preamble limited the claims); *General Elec. Co. v. Nintendo Co., Ltd.*, 179 F.3d 1350, 1361-62 (Fed.Cir.1999) (where the specification made clear that the invention was a mode of display of binary data on a raster scanned display device rather than all display devices, the preamble language “displaying a pattern on a raster scanned display device by mapping bits” was a claim limitation).

In this case, the phrase “scrubbing product” acts as a limitation when read in the context of independent claim 29. Moreover, upon review of the entirety of the present

application, it is evident that such a scrubbing product is what the present inventors actually invented and intended to encompass in the present claims. Thus, for at least these reasons, Applicants respectfully submit that the present claims patentably define over the cited references.

The Office Action apparently confuses (1) a plurality of tissue webs wrapped around a core and (2) a single scrubbing product have multiple layers. In contrast to a roll of paper towels, for example, the scrubbing product of claim 29 is utilized as a whole – as a single product for cleaning. Then, when the outside layer of the scrubbing product is soiled, it can be sequentially removed from the scrubbing product thereby exposing an unused scrubbing layer lying below the removed layer. As such, the claimed scrubbing product is not equivalent to the known rolls of paper towels, etc.

II. Dependent claims 5-6, 23-25, 27-28, 30-31, 41-46, 52, 58-60 are patentable over EP '974 in view of WO '610 and in further view of Prodoehl, et al. and Zafiroglu.

At least for the reasons set forth above with respect to independent claims 1, 29, and 47, dependent claims 5-6, 23-25, 27-28, 30-31, 41-46, 52, 58-60 are patentable over the cited references.

III. Dependent claim 17 is patentable over EP '974 in view of WO '610 and in further view of EP '463.

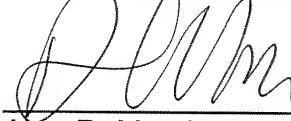
Claim 17 is patentable over the cited references at least for the reasons explained above with respect to claim 1, from which claim 17 depends.

In conclusion, Appellants requests favorable action and allowance of the presently pending claims.

Respectfully requested,

Date: 2-26-09

DORITY & MANNING, P.A.



Alan R. Marshall
Registration No. 56,405
P.O. Box 1449
Greenville, SC 29602-1449
Phone: (864) 271-1592
Facsimile: (864) 233-7342

8. CLAIMS APPENDIX

1. (Rejected) A scrubbing product comprising:
 - a plurality of abrasive structures comprising an abrasive layer and an absorbent layer, the abrasive structures being configured in a stacked arrangement such that the abrasive layers and the absorbent layers alternate;
 - a liquid absorbent substrate having a top surface and a bottom surface, the plurality of abrasive structures being attached to the top surface; and
 - an attachment structure for releasably attaching the plurality of abrasive structures together, the attachment structure permitting a top abrasive structure to be removed from the scrubbing product by a user pulling on the top abrasive structure.
2. (Rejected) A scrubbing product as defined in claim 1, wherein the attachment structure holds the plurality of abrasive structures together with sufficient strength to permit use of the scrubbing product without the plurality of abrasive structures delaminating.
3. (Rejected) A scrubbing product as defined in claim 1, wherein the liquid absorbent substrate comprises a sponge, a foam, a nonwoven material, or a tissue laminate.
4. (Rejected) A scrubbing product as defined in claim 1, wherein the attachment structure comprises a plurality of stitches, the abrasive structures being held together by a thread.
5. (Rejected) A scrubbing product as defined in claim 4, wherein the thread is made from an elastic material.
6. (Rejected) A scrubbing product as defined in claim 4, wherein the stitches are located around a perimeter of the plurality of abrasive structures, each of the abrasive structures being perforated where the stitches are located to permit release of one abrasive structure from the remaining plurality.
7. (Rejected) A scrubbing product as defined in claim 4, wherein the stitches extend through the entire scrubbing product.
8. (Rejected) A scrubbing product as defined in claim 4, wherein the stitches only extend through the plurality of abrasive structures.

9. (Withdrawn) A scrubbing product as defined in claim 1, wherein the attachment structure comprises hook and loop attachments between the plurality of abrasive structures.

10. (Withdrawn) A scrubbing product as defined in claim 9, wherein the abrasive structures comprise an abrasive layer attached to a fibrous cellulosic web, the abrasive layer comprising hooks, the cellulosic web defining a surface attachable to the hooks of an adjacent abrasive structure.

11. (Withdrawn) A scrubbing product as defined in claim 9, wherein the abrasive structures comprise a fibrous cellulosic web attached to an abrasive layer on one side and to a loop material on an opposite side.

12. (Rejected) A scrubbing product as defined in claim 1, wherein the abrasive structures wrap around at least two sides of the liquid absorbent substrate.

13. (Withdrawn) A scrubbing product as defined in claim 12, wherein each abrasive structure forms an endless loop, the endless loop defining a perforation line that traverses across the width of the abrasive structure for permitting removal of the abrasive structure from the scrubbing product.

14. (Withdrawn) A scrubbing product as defined in claim 1, wherein the attachment structure comprises point bonded attachment points between adjacent layers of the abrasive structures.

15. (Withdrawn) A scrubbing product as defined in claim 14, wherein the point bonded attachment points are formed by an adhesive.

16. (Withdrawn) A scrubbing product as defined in claim 14, wherein the point bonded attachment points comprise areas where the plurality of abrasive structures are melt bonded together.

17. (Rejected) A scrubbing product as defined in claim 1, wherein the attachment structure comprises a plurality of apertures extending through the abrasive structures.

18. (Rejected) A scrubbing product as defined in claim 1, wherein each abrasive structure comprises an abrasive layer comprising abrasive polymeric fibers in

a non-uniform distribution secured to an absorbent layer comprising a fibrous cellulosic web.

19. (Withdrawn) A scrubbing product as defined in claim 18, wherein the cellulosic web comprises an uncreped, through dried paper web.

20. (Withdrawn) A scrubbing product as defined in claim 18, wherein the absorbent layer comprises an airlaid web, a coform web, or a paper web.

21. (Rejected) A scrubbing product as defined in claim 18, wherein the abrasive layer comprises a meltspun web.

22. (Rejected) A scrubbing product as defined in claim 21, wherein the meltspun web comprises a meltblown web.

23. (Rejected) A scrubbing product as defined in claim 18, wherein the abrasive polymeric fibers have a mean diameter greater than about 40 microns.

24. (Rejected) A scrubbing product as defined in claim 18, wherein the abrasive layer has a basis weight of greater than about 50 gsm.

25. (Rejected) A scrubbing product as defined in claim 19, wherein the cellulosic web contains high yield fibers in an amount of at least about 5% by weight.

26. (Rejected) A scrubbing product as defined in claim 18, wherein the abrasive structures further contain an additive comprising a soap, a detergent, a buffering agent, an antimicrobial agent, a skin wellness agent, a lotion, a medication, a polishing agent, or mixtures thereof.

27. (Rejected) A scrubbing product as defined in claim 1, wherein the liquid absorbent substrate comprises multiple layers of a paper web.

28. (Rejected) A scrubbing product as defined in claim 27, wherein the paper web comprises an uncreped, through air dried web.

29. (Rejected) A scrubbing product comprising:

a substrate; and

a plurality of scrubbing layers wrapped around the substrate, each of the scrubbing layers comprising an abrasive structure including an abrasive layer adhered to a fibrous cellulosic web, the abrasive structures being configured in an arrangement such that the abrasive layers and the fibrous cellulosic webs alternate, wherein the

scrubbing layers are configured to be sequentially removed from the scrubbing product thereby exposing an unused scrubbing layer lying below the removed layer.

30. (Rejected) A scrubbing product as defined in claim 29, wherein the scrubbing product has a rectangular shape.

31. (Rejected) A scrubbing product as defined in claim 29, wherein the scrubbing product has a cylindrical shape.

32. (Withdrawn) A scrubbing product as defined in claim 29, wherein each scrubbing layer forms an endless loop around the substrate, each layer including a perforation line.

33. (Withdrawn) A scrubbing product as defined in claim 29, wherein the plurality of scrubbing layers are spirally wound around the substrate.

34. (Withdrawn) A scrubbing product as defined in claim 33, wherein the scrubbing layers are periodically perforated thereby defining individual abrasive structures.

35. (Rejected) A scrubbing product as defined in claim 29, further comprising an attachment structure for releasably attaching the plurality of scrubbing layers together.

36. (Rejected) A scrubbing product as defined in claim 35, wherein the attachment structure comprises a plurality of stitches.

37. (Withdrawn) A scrubbing product as defined in claim 35, wherein the attachment structure comprises hook and loop attachments between the plurality of scrubbing layers.

38. (Withdrawn) A scrubbing product as defined in claim 35, wherein the attachment structure comprises point bonded attachment points between adjacent layers of the abrasive structures.

39. (Withdrawn) A scrubbing product as defined in claim 38, wherein the point bonded attachment points are formed by an adhesive.

40. (Withdrawn) A scrubbing product as defined in claim 38, wherein the point bonded attachment points comprise areas where the plurality of abrasive structures are melt bonded together.

41. (Rejected) A scrubbing product as defined in claim 29, wherein the substrate comprises a plurality of paper layers.
42. (Rejected) A scrubbing product as defined in claim 41, wherein the paper layers comprise uncreped, through air dried sheets.
43. (Rejected) A scrubbing product as defined in claim 29, wherein the abrasive layer comprises a meltspun web.
44. (Rejected) A scrubbing product as defined in claim 43, wherein the meltspun web comprises a meltblown web.
45. (Rejected) A scrubbing product as defined in claim 29, wherein the abrasive polymeric fibers have a mean diameter greater than about 40 microns.
46. (Rejected) A scrubbing product as defined in claim 29, wherein the abrasive layer has a basis weight of greater than about 50 gsm.
47. (Rejected) A scrubbing product comprising:
 - a plurality of abrasive structures comprising an abrasive layer and an absorbent layer, the abrasive structures being configured in a stacked arrangement such that the abrasive layers and the absorbent layers alternate;
 - an attachment structure for releasably attaching the plurality of abrasive structures together, the attachment structure permitting a top abrasive structure to be removed from the scrubbing product by a user, the attachment structure comprising a plurality of stitches such that the plurality of abrasive structures are held together by a thread.
48. (Rejected) A scrubbing product as defined in claim 47, wherein the attachment structure holds the plurality of abrasive structures together with sufficient strength to permit use of the scrubbing product without the plurality of abrasive structures delaminating.
49. (Rejected) A scrubbing product as defined in claim 47, wherein the thread is made from an elastic material.
50. (Rejected) A scrubbing product as defined in claim 47, wherein the stitches are located around a perimeter of the plurality of abrasive structures, each of

the abrasive structures being perforated where the stitches are located to permit release of one abrasive structure from the remaining plurality.

51. (Rejected) A scrubbing product as defined in claim 47, further comprising a liquid absorbent substrate defining a top, the plurality of abrasive structures being secured to the top of the liquid absorbent substrate.

52. (Rejected) A scrubbing product as defined in claim 51, wherein the liquid absorbent substrate comprises a plurality of paper plies attached together.

53. (Rejected) A scrubbing product as defined in claim 47, wherein each abrasive structure comprises an abrasive layer comprising abrasive polymeric fibers in a nonuniform distribution secured to an absorbent layer comprising a fibrous cellulosic web.

54. (Withdrawn) A scrubbing product as defined in claim 53, wherein the cellulosic web comprises an uncreped, through dried paper web.

55. (Withdrawn) A scrubbing product as defined in claim 53, wherein the absorbent layer comprises an airlaid web, a coform web, or a paper web.

56. (Rejected) A scrubbing product as defined in claim 53, wherein the abrasive layer comprises a meltspun web.

57. (Rejected) A scrubbing product as defined in claim 56, wherein the meltspun web comprises a meltblown web.

58. (Rejected) A scrubbing product as defined in claim 53, wherein the abrasive polymeric fibers have a mean diameter greater than about 40 microns.

59. (Rejected) A scrubbing product as defined in claim 53, wherein the abrasive layer has a basis weight of greater than about 50 gsm.

60. (Rejected) A scrubbing product as defined in claim 53, wherein the absorbent layer comprises a plurality of plies.

61. (Withdrawn) A scrubbing product as defined in claim 60, wherein each ply comprises a paper web.

62. (Rejected) A scrubbing product as defined in claim 47, further comprising a liquid absorbent substrate, the plurality of abrasive structures being attached to the liquid absorbent substrate.

63. (Rejected) A scrubbing product as defined in claim 62, wherein the liquid absorbent substrate comprises a plurality of paper webs.

64. (Withdrawn) A scrubbing product comprising:
a plurality of abrasive structures, the abrasive structures being configured in a stacked arrangement;

an attachment structure for releasably attaching the plurality of abrasive structures together, the attachment structure permitting a top abrasive structure to be removed from the scrubbing product by a user, the attachment structure comprising a plurality of point bonded attachment points located between adjacent layers of the abrasive structures.

65. (Withdrawn) A scrubbing product as defined in claim 64, wherein the point bonded attachment points are formed by an adhesive.

66. (Withdrawn) A scrubbing product as defined in claim 64, wherein the point bonded attachment points comprise areas where the plurality of abrasive structures are melt bonded together.

67. (Withdrawn) A scrubbing product as defined in claim 64, wherein each abrasive structure comprises an abrasive layer comprising abrasive polymeric fibers in a non-uniform distribution secured to an absorbent layer comprising a fibrous cellulosic web.

68. (Withdrawn) A scrubbing product as defined in claim 67, wherein the cellulosic web comprises an uncreped, through dried paper web.

69. (Withdrawn) A scrubbing product as defined in claim 67, wherein the absorbent layer comprises an airlaid web, a coform web, or a paper web.

70. (Withdrawn) A scrubbing product as defined in claim 67, wherein the abrasive layer comprises a meltspun web.

71. (Withdrawn) A scrubbing product as defined in claim 70, wherein the meltspun web comprises a meltblown web.

72. (Withdrawn) A scrubbing product as defined in claim 67, wherein the abrasive polymeric fibers have a mean diameter greater than about 40 microns.

73. (Withdrawn) A scrubbing product as defined in claim 67, wherein the abrasive layer has a basis weight of greater than about 50 gsm.

74. (Withdrawn) A scrubbing product as defined in claim 67, wherein the absorbent layer comprises a plurality of plies.

75. (Withdrawn) A scrubbing product as defined in claim 74, wherein each ply comprises a paper web.

76. (Withdrawn) A scrubbing product as defined in claim 64, further comprising a liquid absorbent substrate, the plurality of abrasive structures being attached to the liquid absorbent substrate.

77. (Withdrawn) A scrubbing product as defined in claim 76, wherein the liquid absorbent substrate comprises a plurality of paper webs.

78. (Withdrawn) A scrubbing product comprising:
a plurality of abrasive structures, the abrasive structures being configured in a stacked arrangement;

an attachment structure for releasably attaching the plurality of abrasive structures together, wherein the abrasive structure holds the plurality of abrasive structures together with sufficient strength to permit use of the scrubbing product without the plurality of abrasive structures delaminating, the attachment structure, however, permitting a top abrasive structure to be removed from the scrubbing product by a user, the attachment structure comprising hook and loop attachments located between the plurality of abrasive structures.

79. (Withdrawn) A scrubbing product as defined in claim 78, wherein the abrasive structures comprise an abrasive layer attached to a fibrous cellulosic web, the abrasive layer comprising hooks, the cellulosic web defining a surface attachable to the hooks of an adjacent abrasive structure.

80. (Withdrawn) A scrubbing product as defined in claim 78, wherein the abrasive structures comprise a fibrous cellulosic web attached to an abrasive layer on one side and to a loop material on an opposite side.

81. (Withdrawn) A scrubbing product as defined in claim 78, wherein each abrasive structure comprises an abrasive layer comprising abrasive polymeric fibers in

a non-uniform distribution secured to an absorbent layer comprising a fibrous cellulosic web.

82. (Withdrawn) A scrubbing product as defined in claim 81, wherein the cellulosic web comprises an uncreped, through dried paper web.

83. (Withdrawn) A scrubbing product as defined in claim 81, wherein the absorbent layer comprises an airlaid web, a coform web, or a paper web.

84. (Withdrawn) A scrubbing product as defined in claim 81, wherein the abrasive layer comprises a meltspun web.

85. (Withdrawn) A scrubbing product as defined in claim 84, wherein the meltspun web comprises a meltblown web.

86. (Withdrawn) A scrubbing product as defined in claim 81, wherein the abrasive polymeric fibers have a mean diameter greater than about 40 microns.

87. (Withdrawn) A scrubbing product as defined in claim 81, wherein the abrasive layer has a basis weight of greater than about 50 gsm.

88. (Withdrawn) A scrubbing product as defined in claim 81, wherein the absorbent layer comprises a plurality of plies.

89. (Withdrawn) A scrubbing product as defined in claim 88, wherein each ply comprises a paper web.

90. (Withdrawn) A scrubbing product as defined in claim 78, further comprising a liquid absorbent substrate, the plurality of abrasive structures being attached to the liquid absorbent substrate.

91. (Withdrawn) A scrubbing product as defined in claim 90, wherein the liquid absorbent substrate comprises a plurality of paper webs.

9. EVIDENCE APPENDIX

None

10. RELATED PROCEEDINGS APPENDIX

None